

**From:** Diane Sharrow  
**To:** R5CHG.IN("enviro@cybrzn.com")  
**Date:** 7/19/98 9:34am  
**Subject:** Manistique Papers, Inc. -Reply

To show that a violation of RCRA has occurred; the Agency must show that a company has illegally stored, treated or disposed of a hazardous waste. Hazardous waste is defined in Title 40 of the Code of Federal Regulations. It must be either characteristic, i.e., a TRIC waste (Toxic, Reactive, Ignitable or Characteristic - usually D or F Waste Codes) as defined in 40 CFR Part 261, or it must be specifically listed (these wastes generally are P or U waste codes) in 40 CFR. Please note that PCBs are a not haz waste under RCRA, but are covered by TSCA. At MPI we were analyzing for characteristic/TCLP waste, since there are no listed wastes at MPI. In particular we were looking at TCLP wastes, those that might leach (again see 40 CFR Part 261 for a definition). Even if we find such wastes, they must exceed certain levels to be considered a hazardous waste under RCRA. These levels are in 40 CFR 261. However, we also looked to see if the wastes contained PCBs and exceeded ecological data quality levels, but these are not enforceable numbers under RCRA. These are numbers EPA's RCRA program uses in a corrective action to clean-up. If a site did not ever treat, store or dispose of a hazardous waste under RCRA, EPA cannot take corrective action under RCRA at a site. If site is severely contaminated, but never Treated, stored or disposed under RCRA - Superfund is typically used to get at these types of sites.

It is my understanding that the State can use its 201 program to get at any site that is contaminating the environment. I am not sure what DEQ is doing under 201 at the MPI "dump" - I know wells have been installed for some type of closure, but this closure is under State law and not Federal.

LAW OFFICES  
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LANSING, MICHIGAN

June 8, 1998

Deborah Garber, Esq.  
Office of Regional Counsel  
U.S. EPA - Region V  
77 W. Jackson Blvd., C-29A  
Chicago, Illinois 60604

Re: EPA's RMA Sampling

Dear Deborah:

I am writing to express my chagrin that as of noon Monday, June 8, 1998, we still have not been provided with a copy of the sampling plan that the United States Environmental Protection Agency ("U.S. EPA" or the "Agency") intends to follow commencing tomorrow morning at Manistique Papers, Inc.'s ("MPI") residual management area ("RMA"). As you know, when we spoke last week, we expressed concern about the very rushed schedule proposed by U.S. EPA for the sampling. Although the Agency apparently has been planning this sampling event for quite a while, we were not advised of that fact until Friday, May 29, 1998, only one week in advance of the proposed scheduling. Despite that short notice, and our concern about our ability to line up the necessary personnel and resources on such short notice, we reluctantly agreed to proceed with U.S. EPA's schedule.

Incidentally, when we spoke to the State of Michigan, Department of Environmental Quality ("MDEQ" or the "Department") about its intentions with respect to the option to participate in the RMA sampling event, the Department was as surprised about the short notice and lack of details as we were. In fact, MDEQ called our consultant in order to find out more information on the proposed sampling schedule, quantity and types of samples.

That agreement to proceed was predicated on the understanding that the sampling plan or at least those portions identifying the number and types of analysis which would be undertaken, would be provided to us promptly, but in no event later than the end of last week. Although we understand that U.S. EPA may not ordinarily provide such plans in advance, this entire sampling program, including the November 1997 RMA sampling, was predicated upon mutual cooperation.

Deborah Garber, Esq.

June 8, 1998

Page 2

We have done our part and in this instance, within a couple of hours on June 4th of your designation of your preferred recipient of the relevant information, we promptly express mailed and faxed copies of MPI's results of the split sampling from the U.S. EPA's November 1997 sampling event, the well logs showing the screened intervals of our groundwater monitoring network, a map showing the monitoring well locations utilized for that network and MPI's sample results from its groundwater monitoring network. In addition, immediately upon receipt from MDEQ the next day, we forwarded copies of MDEQ's split samples from MPI's regular groundwater monitoring program for the RMA.

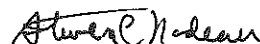
I urge U.S. EPA to immediately fax the groundwater sampling plan directly to Dennis Bittner of Bittner Environmental Engineering, Inc. at (906) 789-9977 (phone number (906) 789-1511). Please also fax me a copy at (313) 962-0176.

Under the circumstances, if U.S. EPA's contractors were not already "on their way," I would have requested that you postpone the scheduled sampling. I hope you are able at least provide us with the sampling plan as soon as possible today.

Finally, when U.S. EPA's sample results become available, you have assured me that the Agency will promptly share those results with us.

Thank you.

Very truly yours,



Steven C. Nadeau

SCN/mrb

cc: Leif Christensen, MPI  
Dennis Bittner, Bittner Engineering, Inc.

FACSIMILE COMMUNICATIONS

United States Environmental Protection Agency  
Carol Browner, Administrator  
401 M Street Washington, D.C.

August 7, 1997

Reference: Illegal Disposal of Hazardous Waste. Location:  
Schoolcraft County, Manistiquie, Michigan, Originator of  
Waste, Manistiquie Paper Inc. ("MPI"), Location of  
Disposal MPI Dump, Township Hiawatha, County  
Schoolcraft, Michigan, State County Code 77, Federal  
County Code 153 Location Code 77-42N-16W-36

Dear Ms. Browner:

Both the Michigan Department of Environmental Quality ("MDEQ") and the United States Environmental Protection Agency ("USEPA") are fully aware of the past and present dumping practices of MPI at the above referenced dump.

In the 1970's MPI's sludge highly contaminated with PCB's dredged from the papermill's former de-inking lagoon and primary treatment area was hauled to the above referenced dump.

In the 1980's MPI was reported by MPI employees to the MDEQ to be illegally dumping of solvents (listed as hazardous waste) and barrels at the above referenced dump.

In the late 1980's MPI's dump was placed on the Michigan 307 site listing but yet still operated under the MPI's NPDES permit.

On August 31, 1993 I had sampled and had tested surface water from the MPI dump, the results are as follows: Acetone 4,200 ug/l, Methyl Ethyl Ketone 2,200 ug/l, Barium 125 ug/l, Chromium 300 ug/l, Copper 290 ug/l, Lead 450 ug/l, Silver 20 ug/l, Zinc 500 ug/l.

In the past 4 years with RCRA and CERCLA federal litigation and meetings with both USEPA officials and MDEQ officials nothing has been done by these agencies to protect the environment. Despite that this dump lies in a wetlands location on the north and east sections of the property used for disposal of sludge by MPI. The Manistiquie River borders the dump on the east. The Indian River, less than 1/4 mile south of the dump, is utilized by the City of Manistiquie for their municipal water supply. Local subsurface conditions at the dump are conducive to the transportation of contaminants through soils into the ground water and near by surface waters.

On October 11, 1988 Steve J. Harrington MDNR wrote to Leif Christensen President, MPI, and stated "The hydrogeologic study indicates a strong likelihood that water quality within the

U.S. EPA would also like to sample from several areas that were not sampled in November 1997. These areas include the sources of all materials (flyash, wastewater treatment sludge, etc.), being disposed of in the RMA, and the wells that had been installed around the RMA just prior to U.S. EPA's November 1997 sampling inspection. U.S. EPA is asking MPI to provide the exact location of all the wells, and the screened intervals, within 5 days of the facsimile receipt of this letter.

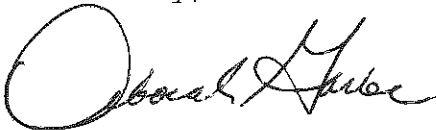
In addition, U.S. EPA is requesting MPI to advise the Agency within 5 days of the facsimile receipt of this letter as to whether or not it will accept responsibility for the characterization and proper disposal of all sampling and investigation derived wastes (IDW); including those generated by U.S. EPA and its contractor, as well as the Michigan Department of Environmental Quality, and MPI (if DEQ and MPI elect to split sample with the U.S. EPA).

Once U.S. EPA receives MPI response to our request for well information, and whether or not MPI will handle the IDW, U.S. EPA will provide MPI with a copy of the draft sampling plan. The sampling plan will be based, in part, on the well information we have requested from you.

Enclosed are the draft analytical results of U.S. EPA's split samples from of the November 1997 sampling inspection. Please note that the U.S. EPA is currently attempting to make a determination of the validity of all sample analysis done by ITS. U.S. EPA is requesting that MPI provide the analytical results of MPI's split samples from the November 1997 sampling inspection immediately upon facsimile receipt of this letter.<sup>4</sup>

Please contact me if you have any questions regarding this sampling inspection, or concerns over granting U.S. EPA access to the MPI plant and the RMA. I can be reached at 312-886-6610.

Sincerely,



Deborah Garber  
Assistant Regional Counsel

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<sup>4</sup> U.S. EPA's request for information from MPI on the wells, and with regards to the analytical results of the November 1997 split sampling, is being made under Section 3007 of RCRA.

\*\*\* TRANSMISSION REPORT \*\*\*

MAY-29-98 08:18

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USEPA REGION 5

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INFORMATION CODE

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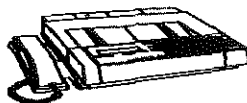
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THIS TRANSMISSION IS COMPLETED.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

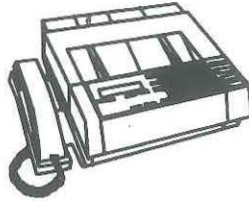


FACSIMILE REQUEST AND COVER SHEET	
OFFICE/TELEPHONE OF RECIPIENT:	MACHINE NO. <u>313 962 0176</u>
TO:	<u>Steve Nadeau Attn: Michelle</u>
FROM:	<u>1 Diane Sharrow for Deb Gaudier</u>
TELEPHONE NUMBER (FTS or commercial):	<u>312-886-6197</u>
COMMENTS:	<u>As Requested -&gt;</u> <u>2nd Page of Letter</u>
DATE:	<u>5-29-98</u>
PLEASE NUMBER ALL PAGES	
NUMBER OF PAGES, INCLUDING COVER SHEET:	PAGE <u>1</u> OF <u>2</u>





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590



**FACSIMILE REQUEST AND COVER SHEET**

FTS: 353-4342  
COMM: 312/353-4342

METCALFE FEDERAL BUILDING  
VERIFICATION NO. 353-3808

OFFICE/TELEPHONE  
OF RECIPIENT:

MACHINE NO. 313 962 0176

TO: Steve Nadeau Attn: Michelle

FROM: 1 Diane Sharrow for Deb Gruber

TELEPHONE NUMBER (FTS or commercial): 312-886-6199

COMMENTS: As Requested →  
2nd Page of Letter

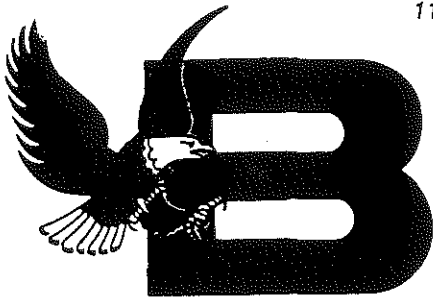
DATE: 5-29-98

**PLEASE NUMBER ALL PAGES**

NUMBER OF PAGES, INCLUDING COVER SHEET: . PAGE 1 OF 2

# BITTNER ENGINEERING, INC.

113 SOUTH 10TH STREET, ESCANABA, MICHIGAN 49829 • 906-789-1511



October 10, 1994

RECEIVED

OCT 11 1994

Marquette Dist. W.M.D

Mr. Duane Roskoskey,  
Environmental Quality Analyst  
Waste Characterization Unit, Waste Management Division  
Michigan Department of Natural Resources  
P.O. Box 30028  
Lansing, MI 48909

RE: Manistique Papers Inc.  
Inertness Designation

Dear Duane:

This letter will confirm our phone conversation of October 6, 1994 during which I provided you with a list of questions that we will be asking during the October 11, 1994 meeting in Marquette with MDNR. While additional questions will be asked, the following questions are those which we feel you will most likely be asked to respond to, as you attend the meeting by phone.

- 1) What is the definition of "environmental contamination" as discussed in Item 14 (c) of the draft inertness designation?
- 2) What is the definition of "additional information" as discussed in Item 14 (b)?
- 3) Why does the proposed list for quarterly testing of the material as outlined in Item 6 include parameters which were of no concern in the original inertness evaluation.

If other questions arise prior to the meeting, we will provide you with the additional information.

Sincerely,

Dennis B. Bittner, P.E.  
Project Manager

DBB/jr

cc: Frank Opolka, Cliff Clark, Jack Rydquist, Rob Schmeling, Margie Ring - MDNR  
Leif Christensen, Tom Arnold, Jim Cook, Jason Panek - Manistique Papers, Inc.  
Claudia Rast - Dickinson, Wright, Moon, VanDusen and Freeman

DENNIS B. BITTNER, P.E., PRESIDENT





# MANISTIQUE PAPERS, INC.

400 S. MACKINAC AVE. • MANISTIQUE, MI 49854 • 500-341-2170

*Manistique  
Papers, Inc.*

JOHN CHRISTENSEN  
PRESIDENT • GENERAL MANAGER

January 24, 1989

Michigan Department of Natural Resources  
Environmental Response Division  
Act 307 Section  
200 S. Washington Square  
Lansing, MI 48933

Re: Inclusion of Manistique River Slips on Proposed Act 307 Lists

Dear Sir/Madame:

This letter sets out the comments of Manistique Papers, Inc. ("Manistique Papers") on the inclusion of the Manistique River Slips ("River Slips Site") in Group 1 of Priority List One of the Michigan Sites of Environmental Contamination Priority Lists Proposed for Fiscal Year 1990 ("Act 307 Lists"). Manistique Papers submits that the River Slips should not be included on the Act 307 Lists both because of procedural flaws in the scoring of the River Slips Site and because the pertinent technical information demonstrates that the River Slips Site is not a site of environmental contamination within the meaning of the Michigan Environmental Response Act, M.C.L.A. §§299.601, et seq. ("Act 307").

I. The River Slips Site Is Not a Site of Environmental Contamination Under Act 307.

Act 307 provides for the annual listing of sites of "environmental contamination," which is defined as "the release of a hazardous substance, or the potential release of a discarded hazardous substance, in a quantity, which is or may become injurious to the environment, or to the public health, safety, or welfare." M.C.L.A. §§299.603(d). The River Slips Site apparently has been included on the Act 307 Lists on the theory that they are a source of polychlorinated biphenyls ("PCB") which have entered the Manistique River. Manistique Papers has demonstrated, however, that the River Slips Site is not, in fact, a source of PCB. See letter dated August 23, 1988 from Howard Edde, Ph.D., P.E. to Brenda Sayles, attached hereto as Exhibit A. Dr. Edde makes the following critical points:

1. The Michigan Department of Natural Resources Remedial Action Plan for Manistique River Area of Concern (AOC), dated October 27, 1987 ("RAP") accurately states that "PCBs have not been detected in either the wastewater or sludge from Manistique Papers since 1973, when DNR first began analyzing for PCBs at Manistique Papers." Exhibit A at 4; RAP at 48. (A copy of page 48 of the RAP is attached hereto as Exhibit B).

January 24, 1989

Page 2

2. Manistique Papers' operations have never discharged PCB into the Manistique River. The Manistique Papers mill has never used the type of recycled paper, known as "hardwhites," which may at one time have contained PCB. Instead, Manistique Papers has used only groundwood recycled paper which does not contain PCB. Exhibit A at 14.
3. The old river slip, which has now been filled, has been stabilized so that its soil does not enter the Manistique River. Exhibit A at 4-5. Moreover, a sampling program conducted in 1986-87 showed that the PCB concentration over the entire area averaged 4.9 mg/kg, which is well below the soil cleanup standard of 25 mg/kg for outdoor restricted access areas specified in the Environmental Protection Agency Toxic Substances Control Act. PCB Spill Cleanup Policy set out at 52 Fed. Reg. 10688 (1987). Exhibit A at 5.
4. The major external source of PCB to the Manistique River AOC is probably atmospheric deposition which is global in origin. Exhibit A at 7-8. Although no evidence exists indicating that Manistique Papers has contributed PCB to the Manistique River, another potential local PCB source has been identified, the City of Manistique wastewater treatment plant. Exhibit A at 3-4.
5. Discharges of PCB to the Manistique River AOC have been decreasing since the early 1970s. Exhibit A at 7-9.

In short, there is simply no evidence for the proposition that the River Slips Site is a source of PCB. Any PCB found in the Manistique River has been contributed by other sources.

Under these circumstances, delisting of the River Slips Site is clearly appropriate. Our understanding is that Michigan Department of Natural Resources ("MDNR") policy is to delist a location when:

Either:

- I. The location is no longer a "Site of Environmental Contamination":
  - released contaminants have been removed to the point where no environmental injury remains.
  - the potential for injurious release has been removed.

OR:

- II. A. The site has been investigated sufficiently to fully determine:
  - sources of the release(s) or potential release(s)
  - the present and future extent and impacts of the release(s)
  - the effectiveness and costs of alternatives for remedying the release(s) or potential release(s)

and any necessary interim response actions are completed, and

II. B. The site has been fully evaluated as in II. A., and there is agreement among the involved state agencies that no further response actions need to proceed at state expense.

Attachment to memorandum dated March 5, 1987 from Richard S. Johns to Tom Work, Rod Mosier, and Andrew Hogarth, attached hereto as Exhibit N.

The River Slips Site satisfies the above criteria. First, the River Slips Site is not, and never has been, a "site of environmental contamination," i.e., it has never injured or threatened to injure the environment or the public health, safety or welfare. See M.C.L.A. §299.603(d) and (k). Second, the River Slips Site was fully evaluated through the RAI process, and there is obviously no need for response actions to proceed at state expense at a location which has not injured or threatened to injure the environment or the public health, safety or welfare. See M.C.L.A. §299.603(d). By MCNR's own standards, the River Slips Site should be delisted.

## II. Procedural Errors

The River Slips Site should also be delisted because the Act 307 scoring process is fatally flawed, thereby invalidating the Act 307 Lists, and because the River Slips Site has not been annually evaluated, contrary to the requirements of Act 307.

As you know, the Act 307 Lists must be derived from a numerical risk assessment model developed by the State ("the Model"). M.C.L.A. §299.606(b). Act 307 also provides that the State shall "[s]ubmit the 2 listings . . . for public hearings geographically dispersed throughout the state. . . ." M.C.L.A. §299.606(c).

Section 5 of Act 307 requires the governor or the governor's designee to promulgate rules pursuant to the Michigan Administrative Procedures Act, M.C.L.A. §§24.201 et seq. ("APA"), necessary to carry out the requirements of Act 307. M.C.L.A. §299.605. Also, Section 6 of Act 307 requires that a numerical risk assessment model be developed to assess the "relative present and potential hazards posed to the public health, safety or welfare by each site identified pursuant to" Act 307. M.C.L.A. §299.606(b). The Model was to be submitted to public hearings and a procedure for changing the Model was to be developed and included in rules promulgated under Act 307. M.C.L.A. §299.606(c).

While generally "[i]t is true that . . . an administrative agency is not required to promulgate detailed rules interpreting every statutory provision that may be relevant to its actions [, a] statute, may, however, impose a duty to do so." *Pulido v. Heckler*, 758 F.2d 503 (10th Cir. 1985) (citations omitted). The legislature has commanded the promulgation of rules for the enforcement of Act 307. M.C.L.A. §299.605. In discussing the Model, the legislature required the promulgation, as rules, of both the Model initially and of a Model amendment procedure. M.C.L.A. §299.606(b). The Model was published on June 10, 1983, and public hearings were held and comments accepted before the Model was finally adopted by MDNR in November, 1983.

Although the Model was published, public hearings were held and comments were accepted before the Model was finally adopted, the applicable rulemaking requirements were not met because: (i) the Model was not submitted to the joint committee on administrative rules, the legislative service bureau, or the governor's

January 24, 1989

Page 4

office, as required by M.C.L.A. §24.241(2); (ii) no regulatory impact statement was submitted as required by M.C.L.A. §24.245(2); and (iii) the Model was not filed in the office of the Secretary of State, as required by M.C.L.A. §24.246. Also, MDNR has failed to comply with the mandatory requirement that it promulgate, as a rule, a procedure for the amendment of the Model, although a Site Assessment System Model Review Committee has been holding regular meetings since October 13, 1986.

The Model was held to be an unpromulgated rule by Judge Patrick J. Conlin in Gelman Sciences, Inc. v. Guyer, slip op No. 88-34548AW (Washtenaw Cnty. Cir. Ct., Oct. 19, 1988). In Gelman, the judge issued a writ of mandamus ordering MDNR to promulgate the rules necessary under Act 307, specifically the Model and a procedure for revising the Model. The judge refused to enjoin MDNR's publication of the Final Act 307 Priority Lists because the lists had already been published.

A rule which is not promulgated in substantial compliance with the requirements of the APA is invalid and unenforceable. M.C.L.A. §24.243. Jordan v. Dep't of Corrections, 165 Mich. App. 20, 418 N.W.2d 914 (1987), and League Gen'l Ins. Co. v. Catastrophic Claims Assoc., 165 Mich. App. 278, 418 N.W.2d 708 (1987). In Sterling Secret Service, Inc. v. Michigan Dep't of State Police, 20 Mich. App. 502, 174 N.W.2d 298 (1970), the Michigan Court of Appeals recognized the general principle that an invalid administrative rule is unenforceable. As a result of MDNR's failure to properly promulgate the Model, Manistique Papers has been prevented from challenging the Model and it is invalid. Because the Model is invalid, MDNR's scoring of the River Slips Site is invalid and MDNR may not score the River Slips Site for inclusion in the Act 307 lists until it has promulgated the Model as a rule.

Moreover, even if a valid Act 307 scoring method existed, the listing of the River Slips Site would still be invalid because MDNR has not conducted an annual evaluation of the River Slips Site for Fiscal Year 1990, as it is required to do by Act 307. M.C.L.A. §299.606(a). MDNR's duty to perform annual evaluations of each site was recently reaffirmed by the court in Gelman. Here, a reevaluation of the River Slips Site which takes the RAP and Dr. Edde's comments into account would necessarily lead to the conclusion that the River Slips Site should be removed from the Act 307 lists. We, therefore request that MDNR remove the River Slips Site from the Final Fiscal Year 1990 Act 307 lists for the reasons stated above.

Thank you for your attention to this matter. If you have any questions about it, please do not hesitate to contact me.

Sincerely,

MANISTIQUE PAPERS, INC.

*Leif Christensen*  
Leif Christensen

LC:blr

105 #1

Harry

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1655 PALM BEACH LAKES BOULEVARD  
SUITE 600  
WEST PALM BEACH, FLORIDA 33401  
TELEPHONE (407) 683-3400

January 18, 1989

RECEIVED

JAN 19 1989

ERD-REMEDIAL ACTION

2250 GLADES ROAD  
BOCA RATON, FLORIDA 33431  
TELEPHONE (407) 395-7505

Mr. Steven J. Harrington  
Act 307 Section  
Environmental Response Division  
Michigan Department of Natural Resources  
200 S. Washington Square  
Lansing, Michigan 48393

FEDERAL EXPRESS

Re: Manistique Papers, Inc. Residuals Management Area

Dear Mr. Harrington:

Enclosed herewith is a letter from our firm's client, Manistique Papers, Inc. ("Manistique Papers") which both responds to your letter to Leif Christensen of October 11, 1988 and sets out Manistique Papers' comments on the inclusion of the above-referenced location on the Proposed Fiscal Year 1990 Michigan Sites of Environmental Contamination Priority Lists.

On January 9, 1989, Andrew Gabel of your office agreed in a telephone conversation with me to extend the date for filing comments on this location to January 19, 1989. A hard copy of the enclosed letter has also been sent to you by Manistique Papers today. Given, however, that the express mail service available to Manistique Papers will guarantee delivery in 48 hours but not in 24 hours, I am sending you the enclosed copy on telecopy paper as well, to ensure that you have received these comments by the January 19 deadline. An identical hard copy of the enclosed letter mailed by our client today should reach your office on January 19 or 20, 1989.

Thank you for your attention to this matter.

Very truly yours,



Robert A. Hykan

RAH/lyc

cc: Mr. Leif Christensen

C9168x



## MANISTIQUE PAPERS, INC.

453 S. MACKINAC AVE. • MANISTIQUE, MI 49854 • 806.341-2175

LEIF CHRISTENSEN

PRESIDENT - GENERAL MANAGER

January 18, 1989

Mr. Steven J. Harrington  
Act 307 Section  
Environmental Response Division  
Michigan Department of Natural Resources  
200 S. Washington Square  
Lansing, MI 48933

RECEIVED

JAN 20 1989

ERD-REMEDIAL ACTION

Re: Manistique Papers, Inc. Residuals Management Area

Dear Mr. Harrington:

This letter responds to your letter to me of October 11, 1988 regarding the Manistique Papers, Inc. ("Manistique Papers") Residuals Management Area ("RMA"), and sets out Manistique Papers' comments on the inclusion of the RMA in Group 2 of Priority List One of the Proposed Fiscal Year 1990 Michigan Sites of Environmental Contamination Priority Lists ("Act 307 Lists"). Your October 11 letter purports to set out the rationale for placing the RMA on the Act 307 Lists issued pursuant to the Michigan Environmental Response Act, 1982 P.A. 307, as amended, M.C.L.A. §§299.601 et. seq. ("Act 307") I would respectfully submit, however, that your analysis is based on a number of factual misunderstandings and there is no legitimate basis for keeping the RMA on the Act 307 Lists.

### I. BACKGROUND

Before responding to the four points made in your October 11, letter I believe it would be useful to review the history of this matter, which reveals that the RMA has been included on the Act 307 Lists only on the basis of unsubstantiated rumor and speculation. The RMA was first included in the Proposed Act 307 Lists published in November 1983. With regard to the basis for that listing, a December 1983 internal Michigan Department of Natural Resources ("MDNR") memorandum stated that anonymous allegations had been made to MDNR regarding barrel disposal at the RMA. Memorandum dated December 7, 1983 from Gary Klepper to Tom Work and Earl Olsen, attached hereto as Exhibit A. MDNR investigated the allegations and determined that no barrels of liquid waste had been sent to the RMA and that there was no evidence to indicate that hazardous material had been deposited at the RMA.

Id. The memorandum states that MDNR had "insufficient information to conclude this is a site of 'environmental contamination' as defined by Act 307, P.A.

1982." Accordingly, the RMA was deleted from the Final Act 307 Lists issued in February 1984.

The RMA reappeared on the Fiscal Year 1987 Act 307 Lists and has remained on all Act 307 Lists issued since then, even though there continues to be no reliable information that supports listing the RMA. My understanding is that one critical piece of data on which MDNR apparently relied for placing the RMA back on the Act 307 Lists was the analysis of a soil sample taken from the bank of the Manistique River in 1985. A laboratory used by MDNR initially found that the sample contained a polychlorinated biphenyls ("PCB") concentration of 1,800 mg/kg. Letter dated November 26, 1985 from Timothy McGarry to the undersigned, attached hereto as Exhibit B. A re-analysis of the soil sample, however, performed at the request of Manistique Papers, confirmed that the 1,800 mg/kg figure was erroneous. We were subsequently advised by Steve Casey of MDNR that the actual PCB level was two orders of magnitude lower, or reduced by a factor of 100.

Subsequently we requested that MDNR correct Mr. McGarry's November 26 letter on this point, but MDNR has declined to do so. At any rate, MDNR's erroneous sample result does not provide a valid basis for determining the extent of PCB contamination in the Manistique River, let alone whether the RMA is a source of PCB. Moreover, a letter from the undersigned to Frank Opolka of MDNR dated April 17, 1987, attached hereto as Exhibit C, confirmed that sampling and testing at the Manistique Papers mill dating back to the early 1970's indicated that the mill was not a source of PCB contamination. The letter also set out seven other potential sources of PCB contamination of the Manistique River and again requested removal of the RMA from the Act 307 Lists.

Mr. Opolka responded in a letter to the undersigned dated June 5, 1987, attached hereto as Exhibit D, which stated that the rationale for listing the RMA was contained in a June 17, 1986 memorandum written by Diane Roycraft of the MDNR Site Assessment Unit. That memorandum, attached hereto as Exhibit E, speculated on the possibility that the residuals at the RMA contained PCB. Mr. Opolka conceded in his June 5 letter, however, that no documentation supported Ms. Roycraft's speculation. He stated that the listing of the RMA stemmed from a mere "assumption" that PCB was present in the residuals and that, without evidence confirming that assumption, "we also question the validity of that listing and consequently agree with you." Mr. Opolka also noted that a hydrogeological study was underway at the RMA which would clarify the PCB issue and assured Manistique Papers that the RMA would be included on the Fiscal Year 1988 307 Lists only "if there is actual documentation to justify it."

The only new evidence which has been developed since Mr. Opolka's June 5, 1987 letter is contained in the "Hydrogeological Study For Manistique Papers', Inc. Residual Management Site" ("Hydrogeological Study") dated January 1988 and prepared by Bittner Engineering, Inc. Appendix E of the Hydrogeological Study, attached hereto as Exhibit F, shows that PCB was not detected in leachate tests of residuals placed at the RMA. In short, not only is there no evidence to support MDNR's previous assumption that the RMA may be a source of PCB, but the Hydrogeological Study now affirmatively demonstrates that that assumption is incorrect.



## II. RESPONSE TO OCTOBER 11 LETTER

Manistique Papers submitted the Hydrogeological Study to MDNR, along with a request to have the RMA removed from the Act 307 Lists, in a letter dated January 8, 1988 from the undersigned to James C. Forney of MDNR, attached hereto as Exhibit G. More than nine months passed before Manistique Papers received the courtesy of a response to that letter, in the form of your October 11, 1988 letter. In responding to your letter I must note initially that it is more significant for what it does not say than for what it does say. Most importantly, your letter sets out no evidence showing that the RMA is a source of PCB or that it is a site of environmental contamination within the meaning of Act 307. That proposition remains, as Mr. Opolka stated in his June 5, 1987 letter with respect to PCB, merely an assumption unsupported by documentation which affords no justifiable basis for keeping the RMA on the Act 307 Lists.

With respect to the four points in your letter, I would respond as follows:

1. MDNR Comment: The data provided in the Hydrogeological Study clearly demonstrate the degradation of near surface groundwater, downgradient of the RMA.

Response: The Hydrogeological Study demonstrates that, in the immediate vicinity of the RMA, there are only minor increases above background level in the concentrations of the parameters measured for that study, which are not statistically significant and do not pose a significant threat of environmental contamination. Hydrogeological Study at 12, attached hereto as part of Exhibit H. To begin with, the quality of the leachate from the RMA and of the groundwater at the seven monitoring wells used in the Hydrogeological Study comport with the Federal Primary Drinking Water Standards. Compare Hydrogeological Study at 12 and 20 with 40 C.F.R. §§141.11 and 257.4, Appendix I (all attached hereto as Exhibit H.) Moreover, the Hydrogeological Study demonstrates that within a few hundred feet of the RMA, at monitoring wells 6 and 7, the quality of the groundwater is yet better than at the RMA and continues to be generally equivalent to background levels. Hydrogeological Study at 12, Exhibit H.

With respect to your comments regarding monitoring well 2, which is immediately southwest of the RMA, we stand by our view that well 2 is upgradient of the RMA. MDNR itself has previously agreed that the groundwater in the vicinity of the RMA flows from southwest to northeast. Letter dated July 14, 1988 from Robert Schmeling II to the undersigned, p. 2, attached hereto as Exhibit I. The flow lines of the groundwater to which your letter refers are attributable to the low permeability of the residuals at the RMA, as shown in the Hydrogeological Study at 9-10, attached hereto as Exhibit J. Water flowing from the southwest toward the northeast is diverted by the residuals and forced to take a circuitous route to the north and then to the east because the residuals virtually stop the flow of water through the RMA. This explains why flow lines in the vicinity of monitoring well 2 are not paralleled to the overall flow direction of the groundwater to the northeast.

Regarding the water quality at well 2, that well is located very near the RMA. Any elevation in the levels of the parameters measured at that well is relatively minor. Hydrogeological Study at 12, Exhibit H. Moreover, I must again stress that the water quality is yet better within a few hundred feet of the RMA at wells 6 and 7. Id.

2. MDNR Comment: The chemical analyses submitted in the Hydrogeological Study are insufficient in scope to determine the nature of the contaminants present.

Response: We were surprised and disturbed to receive this comment because MDNR has previously approved the work plan for the Hydrogeological Study and has never before indicated that the organic chemical analyses referred to in your letter are necessary. Letter dated July 2, 1986 from Robert Schmeling II to Dennis Bittner (setting out parameters which MDNR stated should be monitored) and February 23, 1987 from Robert Schmeling II to Dennis Bittner, attached hereto as Exhibit K. In addition to receiving written approval for the Hydrogeological Study work plan, we have spoken about the contents of the study on a number of occasions with Messrs. Opolka and Schmeling, Clifton Clark and David Dennis of MDNR. For MDNR to first raise an issue about organics almost two years after MDNR approved the work plan and more than nine months after the completed study was submitted to MDNR is patently unreasonable.

Moreover, there was no need for the performance of organic analyses as part of the Hydrogeological Study because the residuals hauled to the RMA are composed of cellulosic wood fibers and natural mineral clay and do not contain organic chemicals. For this reason, during our discussions with MDNR on the Hydrogeological Study Work Plan, we did not propose to conduct analyses of organics and MDNR did not require that we do so. In addition, the Hydrogeological Study demonstrates that the residuals in the RMA are inert, Hydrogeological Study at 21-23 (attached hereto as Exhibit L), so that even if the residuals contained organics, they would not escape into the environment. Your letter asserts that "evidence exists to indicate that materials other than 'inert' substances have been deposited" at the RMA, but does not state what that "evidence" is. Again, this is mere speculation on MDNR's part. Indeed, the only information on this issue of which we are aware shows, as the Hydrogeological Report concluded, that the residuals are inert.

3. MDNR Comment: The Hydrogeological Study indicates a strong likelihood that water quality in the underlying fractured limestone bedrock has been adversely affected by the RMA.

Response: Again, this comment is sheer speculation for which there is no evidence whatsoever. In addition, you apparently have not considered two important factors which make it highly unlikely that contamination of the lower aquifer has occurred. First, the in-situ permeability of the residuals would prevent migration of water through the RMA and thus would serve as a protective layer for the lower bedrock aquifer. Hydrogeological Study at 9-10, Exhibit J. In fact, the residuals are so impermeable that no water was encountered at any of the 18 locations where soil borings were taken for the Hydrogeological Study, even when borings were advanced through the residuals and into the native soils to depths where water was known to exist in the surrounding area. Hydrogeological Study, Appendix B, attached hereto as Exhibit M.

The second factor which would protect the lower bedrock aquifer is the presence of thick layers of rock encompassing the thinner, more permeable zones capable of producing water. The presence of this lower permeability rock actually places the aquifer under artesian pressure, which was observed by Manistique Papers' environmental consultant, Dennis B. Bittner, P.E., during drilling into the formation at a site approximately 1/2 mile west of the RMA.

In short, there is no evidence that a hydrogeologic connection exists between the upper fractured limestone and the lower aquifer and there is no basis for concluding that the RMA has adversely affected that aquifer.

4. MDNR Comment: The Hydrogeological Study's conclusion that "groundwater quality recovers within a few hundred feet" (Pg. 18) has no basis.

Response: Initially, I wish to correct a misunderstanding that appears to exist regarding the locations of the monitoring wells. Contrary to the statement in your letter, the distances associated with monitoring wells 6 and 7 were not incorrectly transposed in the Hydrogeological Study. Rather, the reference point for measuring the distances to these wells was monitoring well 5, not the edge of the RMA. Well 6 is about 900 feet from well 5, and well 7 is about 500 feet from well 5. Well 5 was used as a reference point because it is within 100 feet of the RMA and may be impacted by standing water or ponded runoff from the RMA. Well 5 is thus an appropriate reference point for measuring the rate of travel from the RMA to other locations. To further clarify this situation, I would also note that well 6 is about 500 feet, and well 7 is about 800 feet, from the edge of the RMA.

Applying the rate of travel set out in your letter of 55 feet per year over the 14 plus years that the RMA has been used indicates that any substances which may have been transported during that period would have moved about 800 feet. This distance is significantly greater than the 500 feet between the RMA and well 6 and the 500 feet between well 5 and well 7, while it is roughly equivalent to the distance between the RMA and well 7. If any substances from the RMA or the groundwater near well 5 were migrating to wells 6 or 7, they would have reached those wells by this time. They do not, however, reach wells 6 and 7, as shown by the quality of the water in those wells, which is yet better than the quality at well 5. Hydrogeological Study at 12, Exhibit H. This result proves the validity of the statement in the Hydrogeological Study that "groundwater quality recovers within a few hundred feet" of the RMA.

### III. DELISTING THE RMA

#### A. Procedural Errors in Development of Risk Assessment Model and Failure to Conduct Annual Evaluation

The RMA should be delisted both because the Act 307 scoring process is fatally flawed, thereby invalidating the Act 307 Lists, and because the RMA meets the delisting criteria established by MDNR policy as well as certain site-specific criteria which you have articulated.

With respect to the procedural issue, as you know, the Act 307 Lists must be derived from a numerical risk assessment model developed by the State ("the Model"). M.C.L.A. §299.606(b). Act 307 also provides that the State shall "[s]ubmit the 2 listings. . . for public hearings geographically dispersed throughout the state. . . ." M.C.L.A. §299.606(e).

Section 5 of Act 307 requires the governor or the governor's designee to promulgate rules pursuant to the Michigan Administrative Procedures Act, M.C.L.A. §§24.201 et seq. ("APA"), necessary to carry out the requirements of Act 307. M.C.L.A. §299.605. Also, Section 6 of Act 307 requires that a numerical risk assessment model be developed to assess the "relative present and potential

hazards posed to the public health, safety or welfare by each site identified pursuant to" Act 307. M.C.L.A. §299.606(b). The Model was to be submitted to public hearings and a procedure for changing the Model was to be developed and included in rules promulgated under Act 307. M.C.L.A. §299.606(c).

While generally "[i]t is true that . . . an administrative agency is not required to promulgate detailed rules interpreting every statutory provision that may be relevant to its actions [,a] statute, may, however, impose a duty to do so." Pulido v. Heckler, 758 F.2d 503 (10th Cir. 1985) (citations omitted). The legislature has commanded the promulgation of rules for the enforcement of Act 307. M.C.L.A. §299.605. In discussing the Model, the legislature required the promulgation, as rules, of both the Model initially and of a Model amendment procedure. M.C.L.A. §299.606(b). The Model was published on June 10, 1983, and public hearings were held and comments accepted before the Model was finally adopted by MDNR in November, 1983.

Although the Model was published, public hearings were held and comments were accepted before the Model was finally adopted, the applicable rulemaking requirements were not met because: (i) the Model was not submitted to the joint committee on administrative rules, the legislative service bureau, or the governor's office, as required by M.C.L.A. §24.241(2); (ii) no regulatory impact statement was submitted as required by M.C.L.A. §24.245(2); and (iii) the Model was not filed in the office of the Secretary of State, as required by M.C.L.A. §24.246. Also, MDNR has failed to comply with the mandatory requirement that it promulgate, as a rule, a procedure for the amendment of the Model, although a Site Assessment System Model Review Committee has been holding regular meetings since October 13, 1986.

The Model was held to be an unpromulgated rule by Judge Patrick J. Conlin in Gelman Sciences, Inc. v. Guyer, slip op No. 88-34548AW (Washtenaw Cnty. Cir. Ct., Oct. 19, 1988). In Gelman, the judge issued a writ of mandamus ordering MDNR to promulgate the rules necessary under Act 307, specifically the Model and a procedure for revising the Model. The judge refused to enjoin MDNR's publication of the Final Act 307 Priority Lists because the lists had already been published.

A rule which is not promulgated in substantial compliance with the requirements of the APA is invalid and unenforceable. M.C.L.A. §24.243. Jordan v. Dep't. of Corrections, 165 Mich. App. 20, 418 N.W.2d 914 (1987), and League Gen'l. Ins. Co. v. Catastrophic Claims Assoc., 165 Mich. App. 278, 418 N.W.2d 708 (1987). In Sterling Secret Service, Inc. v. Michigan Dept. of State Police, 20 Mich. App. 502, 174 N.W.2d 298 (1970), the Michigan Court of Appeals recognized the general principle that an invalid administrative rule is unenforceable. As a result of MDNR's failure to properly promulgate the Model, Manistique Papers has been prevented from challenging the Model and it is invalid. Because the Model is invalid, MDNR's scoring of the RMA is invalid and MDNR may not score the RMA for inclusion in the Act 307 Lists until it has promulgated the Model as a rule.

I have just learned today that MDNR has proposed emergency Act 307 rules. Time constraints preclude my commenting in this letter on the legal or technical merits of the rules. For now, I would simply reiterate that the Act 307 Lists will be valid only if the scoring system established by the rules is technically sound and promulgated in accord with procedures required under Act 307 and the APA.

Moreover, with respect to the RMA, even if a valid scoring method existed, the listing of the RMA would be improper because, to our knowledge, MDNR has not conducted a new annual evaluation of the RMA for Fiscal Year 1990, as it is required to do by Act 307. M.C.L.A. §299.606(a). MDNR's duty to perform annual evaluations of each site was recently reaffirmed by the court in Gelman.

**B. COMPLIANCE WITH DELISTING CRITERIA**

The RMA should also be delisted because it meets the general criteria set for delisting by MDNR, as well as certain site specific criteria which you have articulated.

Our understanding is that MDNR policy is to remove a site from the Act 307 Lists when:

Either:

I. The location is no longer a "Site of Environmental Contamination:

-released contaminants have been removed to the point where no environmental injury remains.

-the potential for injurious release has been removed.

OR:

II. A. The site has been investigated sufficiently to fully determine:

-sources of the release(s) or potential release(s)

-the present and future extent and impacts of the release(s)

-the effectiveness and costs of alternatives for remedying the release(s) or potential release(s)

and any necessary interim response actions are completed, and

II. B. The site has been fully evaluated as in II. A., and there is agreement among the involved state agencies that no further response actions need to proceed at state expense.

Attachment to memorandum dated March 5, 1987 from Richard S. Johns to Tom Work, Rod Mosier, and Andrew Hogarth, attached hereto as Exhibit N.

I submit that the RMA falls within both of the delisting criteria set out above. First, the RMA is not and never has been a "site of environmental contamination." As the Hydrogeological Study demonstrates, there is no evidence that any release from the RMA has caused injury which would justify its treatment as a site of environmental contamination. With respect to the second delisting criterion, the RMA has been fully investigated and there is obviously no need for any state funded response action at a site, such as the RMA, which does not threaten to injure the environment or the public health, safety, or welfare. See M.C.L.A. §§299.603(d) and (k) (providing that a "site" of "environmental contamination" is a location where there is a "release of a hazardous substance, or the potential

Mr. Steven J. Harrington  
January 18, 1989  
Page 8

release of a discarded hazardous substance, in a quantity which is or may become injurious to the environment, or to the public health, safety, or welfare.")

You have also advised Mr. Bittner that the RMA would be delisted if there were no evidence that the RMA was either contaminating the lower bedrock aquifer or acting as a source of organics or chlorinated organics. I have already demonstrated that there is no basis for concluding that the RMA either contaminates the lower bedrock aquifer or releases organics. The RMA is also necessarily not a source of chlorinated inorganics, because Manistique Papers does not employ a chlorination process in its manufacturing operations. Thus, the site-specific criteria which you have articulated for delisting the RMA have also been met.

As I have noted, MDNR is required to evaluate annually each Act 307 site, including the RMA. Here, a re-evaluation of the RMA which takes the Hydrogeological Study into account would necessarily lead to the conclusion that the RMA should be removed from the Act 307 Lists. We therefore request that MDNR remove the RMA from the Final Fiscal Year 1990 Act 307 Lists for the reasons stated above.

Thank you for your attention to this matter. If you have any questions about it, please do not hesitate to contact me.

Sincerely,

MANISTIQUE PAPERS, INC.

*Leif Christensen*  
Leif Christensen

LC:blr

Copies: Mr. Frank Opolka  
Mr. Dennis B. Bittner, P.E.

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January 10, 1989

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Mr. Andrew Gabel  
Site Assessment Unit  
Environmental Response Division  
Michigan Department of Natural Resources  
P.O. Box 30028  
Lansing, Michigan 48909

Re: Extension of Act 307 Comment Period/Manistique Papers and Munoz  
Machine Shop Sites

Dear Mr. Gabel:

This letter will confirm the contents of our telephone conversation of January 9, 1989 regarding the above-referenced matter. You agreed to extend through January 19, 1989 the deadline for filing comments on the Proposed Fiscal Year 1990 Michigan Sites of Environmental Contamination Priority Lists with respect to the Manistique Papers site in Schoolcraft County and Munoz Machine Shop in Wayne County. We anticipate that comments will be filed regarding the former site by Manistique Papers, Inc. and that comments will be filed regarding the latter site by Steven G. Gordon.

Thank you for your cooperation in this matter.

Very truly yours,



Robert A. Hykan

RECEIVED

JAN 11 1989

RAH/lyc

C16251

ERD-REMEDIAL ACTION





## NATURAL RESOURCES COMMISSION

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## DEPARTMENT OF NATURAL RESOURCES

STEVENS T. MASON BUILDING  
P.O. BOX 30028  
LANSING, MI 48909

DAVID F. HALES, Director

October 11, 1988

Mr. Leif Christensen, President  
Manistique Papers Inc.  
P.O. Box 309  
Manistique, Michigan 49854

Dear Mr. Christensen:

Thank you for the information you provided for this Department's evaluation concerning the listing of Manistique Paper's Dump site in the Michigan Act 307 Proposed Priority Lists for fiscal year 1989 (FY89). Your comments and the environmental data you submitted were carefully considered prior to the publication of the final FY89 Priority Lists in February of 1988.

It has been brought to my attention that you have not been provided an account of the determination to maintain the Act 307 listing of the dump site. In this regard, I wish to detail the factors which formed the basis for this decision.

1. The data provided in the January 1988 hydrogeologic study of the dump site clearly demonstrates the degradation of near surface groundwater quality, downgradient of the waste pile. Downgradient monitor wells #5 and #6 show elevated levels (significantly above background) for nearly all parameters tested. While the study infers that MW2 is hydrologically upgradient of the dump, static water level contour mapping demonstrates a flow component placing it downgradient of the waste pile. Data from this monitor well also reveals a degradation of groundwater quality. Monitor wells #1, #3, and #4 do appear to be representative of background groundwater quality.
2. The chemical analyses submitted in the January 1988 report are insufficient in scope to determine nature of the contaminants present. Analyses for organic chemicals of concern (i.e. priority pollutants, base neutral acid extractables, cyanide, etc.) are absent. Evidence exists to indicate that material other than "inert" substances have been deposited at the dump site. Without chemical specific organic analysis of environmental samples, it is impossible to evaluate the potential hazards posed by this site.
3. The hydrogeologic study indicates a strong likelihood that water quality within the underlying fractured limestone bedrock has been adversely affected by waste pile. All soil borings at the site reportedly encountered bedrock at 5 to 20 feet below grade. The

report suggests that, due to this limited thickness, the overburden "is not considered a usable aquifer", (Pg. 16). While it is true that it may not constitute a usable aquifer by itself, it seems evident that the phreatic zone of the overburden is hydraulically connected with the underlying fractured limestone. The study finds soils throughout the area to consist primarily of coarse to medium sands lacking in "organic or clay like material" (Pg. 11). In the absence of any protective layer there is every reason to assume that contaminants which have leached to the water table have also migrated to the limestone aquifer. It is pointed out that most domestic wells in the area are finished in the fractured limestone bedrock. Unfortunately, no attempt has been made to ascertain the dump's effect on this productive aquifer.

4. The January report's conclusion that "groundwater quality recovers within a few hundred feet" (Pg. 18) has no basis. As stated on Pg. 17, monitor well #7 is located at the "northeast extreme of the site and would be expected to be in the direct path of groundwater flowing from the site". While well #7 is indeed downgradient from the waste, it is also located 900 feet away (this distance is incorrectly transposed with the distance of well #6 on Pg. 18). The hydrogeologic report elaborates on the efforts undertaken to determine field permeability, hydraulic conductivity and the horizontal rate of groundwater flow, and then ignores these facts when interpreting data from well #7. The estimated horizontal flow rate (55 feet/year) when multiplied by the duration of disposal activities (14 years) indicate the maximum horizontal extent of a contaminant plume should be less than 800 feet. Since monitor well #7 lies outside of this distance it appears rather inappropriate to suggest that the lack of contamination in this well represents a recovery of groundwater quality.

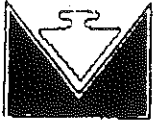
Based on the above factors, the listing of the Manistique Paper's Inc. dump as a site of environmental contamination is necessitated. It is our hope this listing will not be a static situation. Upon adequate investigation and remedial action, this site may be removed from future Act 307 Priority Lists. Until such time, any improvement in site conditions will allow us to reduce the site ranking accordingly. We look forward to the prompt implementation of investigatory and corrective measures at this site.

Sincerely,



Steven J. Harrington  
Site Assessment Unit  
Remedial Action Section  
Environmental Response Division  
517-373-4800

cc: Mr. Joseph Polito, Honigan Miller Schwartz & Cohn  
Mr. David Dennis, Asst. Deputy Director, Region I, MDNR  
Mr. Earle Olsen, ERD, Region I, MDNR  
Mr. Robert Schmeling II, WMD, Region I, MDNR  
Mr. Gary Klepper, ERD, MDNR



## MANISTIQUE PAPERS, INC.

P.O. BOX 303, MANISTIQUE, MICHIGAN 49854 808-341-2174

#3

LEIF CHRISTENSEN

PRESIDENT GENERAL MANAGER

January 8, 1988

Mr. James C. Forney  
Site Assessment Unit  
Remedial Action Section  
Environmental Response Division  
Michigan Department of Natural Resources  
8th Floor, Stevens T. Mason Building  
Lansing, Michigan 48909

RECEIVED  
JAN 11 1988  
ERD-REMEDIAL ACTION

Re: Comments on November, 1987 Proposed Act 307  
Priority Lists/"Manistique Pulp & Paper Company Dump"

Dear Mr. Forney:

The purpose of this letter is to provide my comments on, and request removal of, the "Manistique Pulp & Paper Company Dump" from the Proposed Priority List for Sites of Environmental Contamination, dated November, 1987, prepared by the Michigan Department of Natural Resources ("MDNR") pursuant to the Michigan Environmental Response Act, MCL Sections 299.601 et seq. ("Act 307"). The "Manistique Pulp & Paper Company Dump" is actually a residuals management site used primarily for the disposition of dewatered wastewater treatment plant sludge from Manistique Papers, Inc.'s paper mill in Manistique, Michigan. Authorization to use the site for this purpose is contained in Manistique Papers' National Pollutant Discharge Elimination System ("NPDES") permit (MI0003166). The site is included in Group 2 of the proposed Act 307 list with an SAS score of 04.

In my letter dated April 17, 1987, to Frank Opolka, (copy attached), Deputy Director of MDNR, I fully set forth, among other things, a request that the site be removed from the Act 307 list, along with supporting documentation. In Frank Opolka's response to this letter, dated June 5, 1987 (copy attached), he noted that the listing of the site was based on an apparent assumption that polychlorinated biphenyls ("PCB's") were present in the residuals taken to the site, and that there was no documentation of that relationship when the fiscal year 1988 lists were developed. He stated that "without confirmation of that condition, we also question the validity of that listing and consequently agree with you."

I am not aware of any documentation that supports the listing. Further, I am enclosing a hydrogeological study of the residuals management site prepared by Bittner Engineering, Inc. as additional documentation in support of this request for removal of the site from the Act 307 list. The report shows:

1. PCB's were not detected in leachate tests of residuals placed at the site (see Appendix E of the report).
2. The relevant groundwater protection standards under the Michigan Solid Waste Management Act are being met.

Page 2

3. The characteristics of residuals that are currently placed at the site and of the residuals historically placed at the site indicate that they were and are suitable for disposal there.

In sum, we believe the site should be removed from the proposed Act 307 list because, as stated in Frank Opolka's letter to me, the listing is based on an undocumented assumption. Further, delisting is overwhelmingly supported by the materials submitted with this letter and by my April 17, 1987 letter and attachments to Frank Opolka.

Thank you for your consideration in this matter. We believe that armed with this information, the site can be removed from the final Act 307 list.

Sincerely,

MANISTIQUE PAPERS, INC.

*Leif Christensen*  
Leif Christensen

LC:blr

Copies: Gary Klepper  
Frank Opolka

MICHIGAN DEPARTMENT OF NATURAL RESOURCES

INTEROFFICE COMMUNICATION

RECEIVED OCT 08 1987

Marquette, Michigan  
October 7, 1987

TO: Roger Hack, Regional Supervisor  
Land and Water Management Division

FROM: Steve Casey  
Surface Water Quality Division

SUBJECT: Manistique Papers Solid Waste Site

Manistique Papers, Inc. currently operates a solid waste disposal site for sludge generated in the wastewater treatment plant. This site was approved by the local health department in the early 1970's and has been in use ever since. It is my understanding that the areal extent of the landfill is not now being expanded. All fill is being placed on existing fill. The company is in the process of obtaining an Act 641 license from the Waste Management Division.

The sludge currently being disposed is an impervious mixture of clay and fiber. Vegetation is now growing on inactive areas of fill.

I suggest that you contact Jim Cook at 341-2175 if you wish to view the area.

SC:dmk

c: J. Rydquist

R. Schmeling ✓

STATE OF MICHIGAN



JAMES J. BLANCHARD, Governor

DEPARTMENT OF NATURAL RESOURCES

RONALD G. SKOGG, Director

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Gordon E. Guyer, Director

1990 U.S.-41 South  
Marquette, Michigan 49855

June 5, 1987

Mr. Leif Christensen, President  
Manistique Papers, Inc.  
P. O. Box 309  
Manistique, MI 49854-0111

Dear Leif:

We have completed our evaluation of the requests made in your April 17, 1987 letter to remove certain items from the Michigan Sites of Environmental Contamination Priority Lists. The background information you provided was very helpful, and your points were well taken.

Before addressing the specific items in your letter, it may be worthwhile to explain how sites have been selected for listing. Act 307 was established to provide an objective process for evaluating sites of environmental contamination in Michigan and funding cleanup of those of highest priority. The law specifically defined such a site as one that releases or has the potential to release hazardous substances which are or may become injurious to the environment or to the public health, safety and welfare. Based on the "potential" aspects, virtually every site in Michigan where hazardous materials were spilled, detected or suspected to be present were put on the list. Only recently has an effort been made to institute a screening process that is expected to eliminate sites that do not deserve to be listed.

In the case of the Manistique River and the landfill sites, I believe Ms. Diane Roycraft's June 17, 1986 memorandum, enclosed with your letter, explains the rationale used to warrant those listings. It is apparent she concluded the PCB problem that has been documented is related to the de-inking lagoons and/or associated sludges. That was an apparent assumption since there was no documentation of that relationship when the Fiscal Year 1988 lists were developed. De-inking waste problems in the Kalamazoo River may have led to that assumption. Neverthe-

June 5, 1987

less, we agree with your assertion that it is inappropriate to use "paper products" and "lagoons" to describe the problem in the Manistique River.

The listing of the landfill site also stems from the assumption that PCB's were present in the de-inking sludge. Without some confirmation of that condition, we also question the validity of that listing and consequently agree with you.

It is our understanding that hydrogeological studies are presently underway at both the landfill site and on your plant property. The purpose of the studies are to assess the existing and potential contamination issues associated with past and present sludge disposal practices, and to define the PCB contamination problem on the plant site. The results of those studies should clarify the Manistique River problem, as it relates to Manistique Papers, Inc.

Although it is too late to change the 1988 listings, I can assure you the Fiscal Year 1989 edition will only contain reference to Manistique Papers, Inc., if there is actual documentation to justify it. The U. P. environmental staff has been instructed to follow up in that regard.

Sincerely,

Frank Opolka  
Deputy Director  
906-228-6561

FO:kr

cc: Ms. Diane Roycraft, Site Assessment Unit, ERD  
Mr. Jack Rydquist, Surface Water Quality Division  
Mr. Earle Olsen, Environmental Response Division





# MANISTIQUE PAPERS, INC.

P.O. BOX 308, MANISTIQUE, MICHIGAN 49854 906-341-2175

LEIF CHRISTENSEN

PRESIDENT - GENERAL MANAGER

April 17, 1987

RECEIVED APR 17 1987

Mr. Frank Opolka  
Surface Water Quality Division  
Department of Natural Resources  
1990 U.S. 41, South  
Marquette, MI 49855

Re: Manistique Papers, Inc.

Dear Frank:

Thank you for attending our meeting of March 17, 1987. I found it valuable to discuss the PCB contamination problem in the Manistique River area with you.

The purpose of this letter is to request the removal of "paper products" as the source of contamination, and the "lagoon" as the point of release, for the listing of Manistique River Slips as a Group 1 site on the Michigan Environmental Response Act ("Act 307") List of Sites of Environmental Contamination. I also request removal of the "Manistique Pulp Paper Co. Dump" from Group 2 of the Act 307 list. My understanding is that this list is intended to identify and evaluate sites in the state for the purpose of assigning priority for response actions taken under Act 307, and that funds for response activities can be appropriated for sites on the Act 307 list. As we discussed at our meeting, there are several reasons which justify my requests.

Despite extensive sampling and testing dating back into the early 1970's, the mill has never been found to emit PCBs. In fact, the data we have indicate that the mill is not the source of any PCB contamination.

1. Both the internal and external processes of the mill have been repeatedly sampled. As evidenced by the attached October 2, 1979 letter from Jack Bails (attachment 1), no PCBs have been found coming from the mill. Steve Casey of MDNR confirmed at our meeting that no PCBs have been found to be coming from the mill since the time of the letter.
2. To my knowledge, paper with PCB inks has never been processed at the mill. NCR ("no carbon required") paper, which has been found to be rich in PCB and involved in contaminated discharge from another mill, cannot and could not be processed at Manistique Papers, even in very small quantities, because it would ruin the mill's products. If NCR paper was brought in the mill, it would have been rejected. To the best of my knowledge, the mill has never in the past been able to process NCR paper.

3. Areas in which PCBs have been found generally consist of a variety of soils and have not been shown to consist of paper mill products only. In fact, there are several potential sources of PCB outside of the mill (as I discuss below). The sediments found to contain small amounts of PCB in the Manistique Harbor do not contain paper or paper products.

We have informally identified many other potential sources for the PCB contamination. These include:

1. Old City Dump: The old dump is located to the west of Chippewa Avenue in Manistique, and appears to have been operated for more than half a century. This site may have been used for disposal of all types of rubbish, including electrical equipment containing PCB oil.
2. Junkyard: A junkyard has been operated since the 1940's along the Manistique River, east of the flume to the mill. Disposal of PCB electrical equipment by dumping the oil and reclaiming metal, particularly copper, was a common practice at junkyards prior to PCB regulation.
3. Sand Ravine: A sand ravine is located close to an Edison Sault office and substation a few hundred feet from the boat slip near which PCBs have been found. This sand ravine may have been used for disposal of transformer oil before the transformers were sold for copper reclamation.
4. Storm Sewer: An old City storm sewer and Weston Avenue Creek accepted all drainage from the upper west side of the city. The runoff could have included incidental PCB contamination due to lightning strikes of PCB transformers. It is also possible that PCB could have been intentionally dumped in the storm sewer or creek.
5. The Manistique City Effluent Plant: Apparently, the discharge of this plant has been found to contain PCB in tests conducted by State officials in the 1970's.
6. Old Dimension Site: Soil used for fill in the boat slips was removed from the Old Dimension site by the National Guard and brought in as fill. A sawmill used to operate on the Old Dimension site and probably utilized PCB electrical equipment. Old concrete footings, suitable for fill, may have been contaminated when the sawmill was demolished. These pieces of concrete were part of the fill brought to the boat slips.
7. Old Chemical Company: Apparently, a chemical company operated on the west side of the river just below the current location of the paper mill around the turn of the century. This chemical company is unfamiliar to me but was brought up in a public hearing held in Manistique last year. See attached article from the Manistique Pioneer Tribune, September 5, 1986 (attachment 2).

It is my understanding that PCB in sediments along the embankment to the Manistique River may have been found. I do not believe that Manistique Papers has been found to be the source of the PCBs, and I do not think it is the focus of current efforts underway to address the perceived PCB problem. On this basis, and

in light of the above information, we actively solicit your help in removing the reference to paper and paper products and to the lagoon in connection with PCB in the Manistique Boat Slip Act 307 listing.

With respect to the mill's landfill, there does not appear to be any basis for its inclusion on the Act 307 list. The landfill was investigated back in 1982 and 1983 by MDNR in part to determine whether it would be appropriate to include the landfill on the Act 307 list. I have attached a December 7, 1983 memorandum from Tom Work and Earl Olsen to Gary Klepper, which states that the landfill would be removed from the Proposed Act 307 list (attachment 3). As the memorandum states, MDNR had investigated allegations of dumping of barrels of liquid waste (which were not substantiated) and had not been able to find any other evidence of hazardous material deposited at the landfill. In connection with this investigation, the disposal of paper mill sludge at the landfill was specifically examined by MDNR. The February 1984, Act 307 list showed that the mill's landfill had been deleted. Excerpts from that list are attached (attachment 4).

The mill's landfill reappeared in the February 1986 Draft and May, 1986 Final, Act 307 list. When I wrote to Gary Guenther about the bad publicity the mill was receiving due to the Act 307 listing, he wrote back to me on July 1, 1986, enclosing a memorandum to file from Dianna Roycraft that purported to explain, among other things, why the landfill had been listed. Gary's letter, and Dianne Roycraft's memorandum, are attached (attachment 5). The memorandum sets forth as a basis for the listing that the paper mill sludges have been found to contain high levels of PCB, and MDNR inspections "indicated" that barrels of liquid had been dumped at the landfill. These two concerns seem to be the same ones which were considered, investigated, and dismissed in 1983. Hence, I am at a loss as to why the mill's landfill is now on the Act 307 list.

As noted earlier, the mill has not been linked to the discharge of any PCBs. To my knowledge, the assertion in Dianne Roycraft's memorandum that high levels of PCBs have been found in old mill sludges is unfounded. I am attaching a copy of a report prepared by U.P. Engineering Company setting forth the results of leachate tests conducted on samples of paper mill sludge of various ages which were taken to the landfill (attachment 6). This report has been prepared in connection with our application for an Act 641 permit. The report shows that for every sample analyzed, no PCBs were detected in the leachate. I view this as additional substantiation that the landfill should not be included on the Act 307 list.

Accordingly, I request your help in obtaining the deletion (for a second time) of the mill's landfill from the Act 307 list. There does not seem to be any new affirmative evidence developed since 1983 which would form a basis for adding the landfill to the list, and the information provided with this letter should provide sufficient information to the contrary to support deletion.

Thank you for your consideration and attention.

Sincerely,

MANISTIQUE PAPERS, INC.

*Leif Christensen*  
Leif Christensen

LC:blr

Attachments

WESTERN MICHIGAN ENVIRONMENTAL SERVICES, INC.

TABLE OF RESULTS - ASTM LEACHATE EVALUATION

Sample Identification: Manistique Papers Landfill B - "M" Composite of seven borings

Submitted By: U.P. Engineering, Escanaba, Michigan

Date Received: March 9, 1987

ESI #: 8703050-11

Leaching Procedure Initiated: March 11, 1987

Results Reported: March 26, 1987

Results Expressed as milligrams per liter (mg/l) except where noted in parentheses.

<u>Parameter</u>	<u>Result</u>
pH (s.u.)	7.4
Specific Conductance ( $\mu$ mhos/cm)	140
Oil and Grease	<1
Phenols, Total	0.069
Aluminum, dissolved	<0.25
Cadmium, dissolved	<0.01
Chromium, dissolved	<0.005
Copper, dissolved	0.029
Iron, dissolved	<0.05
Lead, dissolved	<0.005
Zinc, dissolved	0.27
PCB's ( $\mu$ g/l)	<0.5

Original Sample:

Description: light black friable, moist soil with some large pieces of fibrous material

Total Solids: 42.4% of sample

Storage Conditions: ambient

WESTERN MICHIGAN ENVIRONMENTAL SERVICES, INC.

Cadmium, dissolved	EPA Method 213.1.
Chromium, dissolved	EPA Method 218.2.
Copper, dissolved	EPA Method 220.1.
Iron, dissolved	EPA Method 236.1.
Lead, dissolved	EPA Method 239.2.
Zinc, dissolved	EPA Method 289.1.
PCB's	EPA Method 608.

\*Atomic Absorption Spectrophotometer  
Perkin Elmer Model 403 with an HGA 2000  
Perkin Elmer Model 5000 with an HGA 500

NATURAL RESOURCES COMMISSION  
THOMAS J. ANDERSON  
MARLENE J. FLUHARTY  
GORDON E. GUYER  
KERRY KAMMER  
O. STEWART MYERS  
DAVID D. OLSON  
RAYMOND POUPORE

STATE OF MICHIGAN



JAMES J. BLANCHARD, Governor

DEPARTMENT OF NATURAL RESOURCES

STEVENS T. MASON BUILDING  
BOX 30028  
LANSING, MI 48908

Gordon E. Guyer, Director

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Rymerman

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JUL 2 1986

MANISTIQUE PAPERS, INC.  
Manistique, Mich 49854-0111

July 1, 1986

Mr. Leif Christensen  
Manistique Papers, Inc.  
P.O. Box 309  
Manistique, Michigan 49854

Dear Mr. Christensen:

I have received your letter regarding the April 28, 1986 issue of the Escanaba Daily Press and the listing of the Manistique River Slips and the Manistique Pulp and Paper Company Dump.

The Michigan Department of Natural Resources publishes an annual priority list of sites of environmental contamination, as mandated by Act 307, P.A. 1982 (the Michigan Environmental Response Act). This is the list discussed in the Escanaba Daily Press article.

The attached memo describes our justification for the inclusion of the Manistique River Slips and the Manistique Pulp and Paper Company Dump on our Act 307 priority list. Also included are copies of the pages from this year's priority list which include these listings.

I have asked the staff from our Groundwater Quality Division to meet with you and discuss our justification if you desire. Ms. Dianne Roycraft of the Groundwater Quality Division at telephone number 517-373-4800 will contact you to set up an appropriate meeting. If I may personally be of assistance, please feel free to contact me.

Sincerely,

Gary E. Guenther, P. E.  
Deputy Director  
517-373-7917

Attachments

cc: J. Bohunsky/T. McGarry, HWD  
J. Rydquist/S. Casey, SWQD  
E. Olsen/R. Schmeling, GQD  
File

Boersen

Manistique Paper  
Future  
File

MICHIGAN DEPARTMENT OF NATURAL RESOURCES

INTEROFFICE COMMUNICATION

XCC's  
for Shell  
mty

March 4, 1986

TO: Gary Guenther, Deputy Director  
~~Paul Zueger, Chief, Surface Water Quality Division~~  
Rick Johns, Chief, Groundwater Quality Division  
Don Inman, Chief, Environmental Enforcement Division

FROM: *John M. Bohunsky*  
John M. Bohunsky, Chief, Compliance Section  
Hazardous Waste Division

SUBJECT: PCB Soil Contamination

There is a potential for a serious PCB contamination problem at the Manistique Pulp and Paper Company in Manistique, Michigan. The PCB contamination at the plant site is believed to be caused by a deinking process which was discontinued in the late 1970s. Poor handling practices of the papermill sludges is suspected as being responsible for the contamination of soils on the site and sediments in the river.

Of the 20 soil samples collected at the site during our inspection in October of 1985 two soil samples at the site indicated levels of 500 and 1400 mg/l at locations along the Manistique River. Runoff from the site is believed to be responsible for the 50 mg/l observed for sediment samples obtained from the Manistique River. The sampling survey was conducted by the Hazardous Waste Division PCB Unit in cooperation with the Water Quality Surveillance Section of the Surface Water Quality Division. The PCB inspectors report will be final typed during the week of March 16, 1986.

The PCB unit is currently reviewing the results of past inspection reports in an attempt to identify other possible problem sites in the state. We are also rearranging our inspection schedules to place greater emphasis on identifying plant sites which have potentially high PCB site contamination.

cc: Mr. Del Rector  
Mr. Jack Rydquist, Marquette Regional Office  
Mr. Earl Olson, Marquette Regional Office

RECEIVED  
MAR 07 1986  
SWQD  
ADMINISTRATION



DEC 11 1985

**LUCE-MACKINAC-ALGER-SCHOOLCRAFT  
DISTRICT HEALTH DEPARTMENT**

CHIPPewa COUNTY  
HEALTH DEPARTMENT

**OFFICES**

**LUCE COUNTY &  
ADMINISTRATIVE  
OFFICES**

Community Bldg.  
Sault Ste. Marie, MI 49783  
(906) 293-5107

**MACKINAC COUNTY**

220 Burdette St.  
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(906) 643-7700

**ALGER COUNTY**

P.O. Box 375  
Sault Ste. Marie, MI 49783  
(906) 387-2297

**SCHOOLCRAFT COUNTY**

County Building  
Manistique, MI 49854  
(906) 341-5876

**REPLY TO:**

**SCHOOLCRAFT COUNTY**

County Building  
Manistique, MI 49854  
(906) 341-5876

December 10, 1985

Dave Martin  
Chippewa County Health Department  
109 Arlington  
Sault Ste. Marie, MI 49783

re: Manistique Papers Inc. (formerly Manistique Pulp & Paper Co.)  
Sludge Disposal Site, Section 36, T42N, R16W, Hiawatha Township,  
Schoolcraft County

Numerous sites were listed on the DNR October 21, 1985, "Proposed Priority List for Evaluation and Interim Response at Sites of Environmental Contamination." Of the sites in Schoolcraft County, the most important site, in my opinion, in need of further evaluation is the Manistique Papers sludge disposal site. This letter outlines my concern for this site.

The landfill receives a sludge waste product from the papermaking process at Manistique Papers Inc. papermill in Manistique. The sludge is taken by truck to the disposal site which is about 3½ road miles northeast of the papermill.

The sludge has been analyzed for chemical content (see enclosed January 15, 1979, report from Cory Laboratories Inc.). The general physical parameters of the sludge include 75% water, 16% clays, soils and other non-combustibles and 9% paper fiber. Noteable toxic materials include chromium, nickel, copper, lead, and zinc ranging from 4 to 39 parts per million. The Cory Laboratories study noted that "the material has no tendency to leach any parameter tested to a degree that would cause concern". The study concluded that "the material for disposal does not appear to be hazardous or a concern to cause a deterioration of groundwater".

I have several concerns with the Cory Laboratories leachate study. First is that (see page entitled "Leaching Study Procedure" of the Cory Laboratories report) pH 7.0 deionized water was used in the leachate study. Under natural conditions the sludge would be exposed to acidic water (rainwater, swamp water from surrounding wetlands, etc.). The ability of acidic solutions to leach heavy metals out of soil is well known; thus I question the validity of the Cory Laboratories conclusion concerning the leachate.

Another problem with the leachate study is that their procedure was to "decant samples through 0.45 membrane filters" which suggests gravity flow of liquids through the sludge sample. Under natural conditions, sludge is subjected to substantially greater pressures than gravity. I would estimate the

mound of sludge at the disposal site to be at least 50' high and growing in size. The large volume and height of the sludge mound would create some hydraulic "head pressure" which could influence the leachate.

A third concern is that other chemicals may be disposed of at the sludge site that are not contained in sludge. I have had reports from an individual employed at the Papermill that chemical barrels are frequently taken to the sludge disposal site at night and covered. The individual supplied information concerning original barrel contents (see enclosed list of chemicals).


Currently, there is a large volume of sludge at the landfill. A 40 acre parcel visible from the county road on the southern boundary of the property has a large mound of sludge which hearsay indicates grows at the rate of a 20 yard truckload once an hour, 24 hours a day. There is also a large parcel of land owned by the Papermill in the area. The sludge disposal site is located on a 407 acre (as of 1984) parcel owned by Manistique Papers, Inc.

In my opinion, the landfill should be located in a less environmentally sensitive area (see enclosed map). Wetlands are located on the north and east sections of the property. The property borders the Manistique River to the east. The Indian River is less than 1/4 mile south of the property. In 1979, a hydro-geological evaluation for the sludge disposal area by the Geological Survey Division, DNR; (see enclosed copy) indicated that the "surface and groundwater west of the railroad grade should normally flow to the Indian River". The City of Manistique Water Treatment Plant intake is on the Indian River south of the sludge disposal site.

West of the sludge disposal site is rural land with scattered residences. Well records, evaluations for sewage disposal systems, etc. have shown bedrock to be generally present at depth less than 6' from ground surface. In a July 5, 1979 report from the Geological Survey Division, DNR, (see enclosed copy) notes that the bedrock in the area is of the "Burnt Bluff formation", a series of limestone and dolomite layers with some fracturing in its upper sections. Well problems have been encountered in the formation in Delta, Schoolcraft and Mackinac counties due to "its fractured condition and lack of thick enough protective overburden" as well as improper well construction. In 1982, this office investigated water supplies having evidence of bacterial contamination in the area to the west and north of the sludge disposal site (the area where wells were sampled extends about 2½ miles north and 2½ to 3 miles west of the sludge disposal area).

Because of the physical and geological conditions surrounding the sludge disposal site, there is potential for leakage from the landfill to enter the groundwater or surface water, both of which are used for drinking water purposes.

For the reasons listed above, I feel that the site needs further evaluation for evidence of any environmental contamination and for suitability of continued use as a disposal site. If you have any questions concerning this matter, please advise.

  
Mark McCune, Sanitarian

MM/cg

\* 97 supplies sampled, 23% had  
Bact count

STATE OF MICHIGAN



JAMES J. BLANCHARD, Governor  
**DEPARTMENT OF NATURAL RESOURCES**

STEVENS T. MASON BUILDING  
BOX 30028  
LANSING, MI 48909

RONALD O. SKOOG, Director

NATURAL RESOURCES COMMISSION

THOMAS J. ANDERSON  
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HEN V. MONSMA  
WART MYERS  
D. OLSON  
MOND POUPORE  
HARRY H. WHITELEY

November 26, 1985

CERTIFIED MAIL

Mr. Leif Christensen, President  
Manistique Paper, Inc.  
P.O. Box 111  
Manistique, Michigan 49854

Dear Mr. Christensen:

As discussed in my phone conversation with Jim Cook on November 26, 1985, elevated levels of PCBs were detected in sludge material sampled during the October 15, 1985 TSCA inspection conducted at the facility. The samples taken at the south bank of outfall 005 discharge channel (Sample #77017N) near shore and at the east side sludge holding lagoon near river shoreline (Sample #77017O) showed levels of 440 ppm and 1800 ppm, respectively.

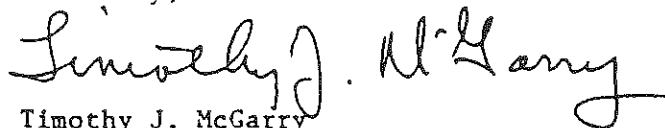
At this time, we are advising the facility that this contaminated material, located in these aforementioned areas, should not be removed and put in the facility-owned landfill. If the facility wishes to remove the contaminated material at this time, it must be handled and disposed of in accordance with 40 CFR Section 761.60 of the Code of Federal Regulations, which requires the disposal of PCB contaminated soils of levels greater than 50 ppm in a chemical waste landfill which complies with Section 761.75 or an incinerator which complies with Section 761.70.

PCB concentrations found in the other soil samples taken on company property during the TSCA inspection ranged from less than .04 ppm to 33 ppm. Analysis of the sediment samples taken by DNR personnel are not complete at this time.

Further correspondence in regards to compliance issues related to the inspection will be coming from U.S. EPA, Region V in Chicago.

In the meantime, if you have any questions regarding the inspection or this letter, please call me at 517-373-2730.

Sincerely,

A handwritten signature in dark ink, appearing to read "Timothy J. McGarry". The signature is fluid and cursive, with the first name "Timothy" being more prominent and the last name "McGarry" following in a similar style.

Timothy J. McGarry  
Environmental Quality Analyst

TJM:jv

cc: Steve Casey, SWQ Marquette  
Jim Cook, Manistique Paper  
Dan Patulski, U.S. EPA, Chicago  
Robert Schmeling, GWO Marquette  
Dennis Swanson, SWQ Lansing

INTEROFFICE COMMUNICATION

December 7, 1983

TO: Tom Work, Compliance Section 1, Groundwater Quality Division  
Earl Olsen, Marquette District Office, Groundwater Quality Division

FROM: Gary Klepper, Site Assessment Unit, Remedial Action Section,  
Groundwater Quality Division

SUBJECT: Manistique Paper Inc. Frankevitch Rd. Disposal Site

A review of agency information regarding this site has determined that we presently have insufficient information to conclude this is a site of "environmental contamination" as defined by Act 307, P.A. 1982. Therefore, unless other information comes to our attention by December 27, 1983, the site will be removed from the list of sites identified to the legislature for "Evaluation and Interim Response" this year.

This action is being taken following conversations with yourselves, Mr. Joe Bal of Surface Water Quality and Mr. Glen Hare of Law Division. Mr. Hare investigated the concern raised anonymously by a plant employee regarding barrel disposal at the site and advised me on December 2, 1983, that the employee gave no indication that any barrels of liquid waste ever went to the Frankevitch Rd. Site (only empty barrels). Similarly, no other staff was able to document hazardous material having been deposited at the site.

We do suggest that the site be evaluated in terms of its compliance with Act 641 and potential for groundwater pollution due to the large volumes of wastes at the site and apparently vulnerable groundwater resources. More complete characterization of the nature of the waste materials would be an appropriate part of such an evaluation. If at any time it is determined the the site contains: "a chemical or other material which is or may become injurious to the public health, safety, or welfare or to the environment" in such a way that the materials could be released to the environment, please advise our office at (517) 373-4800.

GK:jc

cc: R. Johns  
A. Hogarth  
J. Bal ✓  
G. Hare  
R.A.S. File

*Gary Klepper*

December 5, 1983

Mr. Leif Christensen  
Manistique Papers  
P. O. Box 309  
Manistique, Michigan 49854

Dear Mr. Christensen:

A review of our agency's information regarding your Frankevitch Road disposal area has determined that we presently have insufficient information to classify the area as a site of "Environmental Contamination" as defined by the State's Environmental Response Act (Act 307). Therefore, unless other information comes to our attention prior to the December 27, 1983, close of the public comment period, the site will be removed from the list of sites identified as needing "Evaluation and Interim Response" through Act 307.

The "old channel" area of the Manistique River which was originally identified as Manistique Pulp and Paper Lagoon Sediments has been designated "Manistique River Slips."

A copy of the proposed Act 307 priority list is enclosed for your reference. It reflects the change in one site name (p.9) and includes a copy of Act 307.

Thank you for bringing your information about these sites to our attention. If we can be of further assistance please contact us.

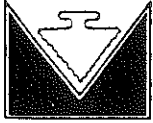
Sincerely,

Gary Klepper  
Site Assessment Unit  
Groundwater Quality Division  
517-373-4800

fb

Enclosure

cc: C. Kramer, Sen. Irvin's Office  
A. Hogarth  
W. Work/ E. Olson  
J. Bal ✓



# MANISTIQUE PAPERS, INC.

P.O. BOX 111, MANISTIQUE, MICHIGAN 49854 • 906-341-2175

LEIF CHRISTENSEN

PRESIDENT - GENERAL MANAGER

December 9, 1982

Mr. David A. Ferrier, Senior Engineer  
Permit Unit  
Air Quality Division  
Department of Natural Resources  
Box 30028  
Lansing, Michigan 48909

Dear Mr. Ferrier:

Confirming our conversation of yesterday concerning the third paragraph of your letter to me dated December 3, you believe that we would not have trouble continuing our current practice of dumping fly ash with the water treatment sludge. The dumping of the water treatment sludge is approved and inspected by the Water Quality Division of the Michigan Department of Natural Resources with authorization granted under our Residuals Management Plan of our Water Discharge NPDES Permit No. MI 0003166.

Sincerely,

MANISTIQUE PAPERS, INC.

*Leif Christensen*  
Leif Christensen

LC:blr

Copies: Jim Cook  
Joe Bal  
Tony Palladino  
Don Schnurer  
Dave Williams ✓  
Ray Zimmerman

43 V 12049

LUCE-MACKINAC-ALGER-SCHOOLCRAFT  
DISTRICT HEALTH DEPARTMENT

OFFICES

**LUCE COUNTY &  
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OFFICES**

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Newberry, MI 49868  
(906) 293-5107

**MACKINAC COUNTY**

220 Burdette St.  
St. Ignace, MI 49781  
(906) 643-7700

**ALGER COUNTY**

P.O. Box 375  
Munising, MI 49862  
(906) 387-2297

**SCHOOLCRAFT COUNTY**

County Building  
Manistique, MI 49854  
(906) 341-5876

REPLY TO:

**SCHOOLCRAFT COUNTY**

County Building  
Manistique, MI 49854  
(906) 341-5876

July 28, 1981

Ron Holben  
Michigan Department of Public Health  
State Office Building  
Escanaba, MI 49829

re: Water Supplies, Schoolcraft County - Section 35, T42N, R16W, and  
Section 2, T41N, R16W

Recently, several water samples collected by local resident, Tom Halvorson, from his residential well revealed evidence of bacterial contamination, detergents and excessive nitrates. The results of the water samples were evidently a topic of local discussion because soon thereafter we received complaints from area residents concerning a "change" in their water supplies and requests for this department to test their water. Allegations began circulating that the Manistique Pulp & Paper Company sludge disposal site was the source of contamination. From discussions with local residents, it seems that this allegation has been based only on the near proximity of the sludge disposal site to the area in question.

During the past several weeks this department has conducted surveys of several water supply systems in the area. Enclosed is a summary of the water samples and the water supply construction deficiencies for each residence. Also enclosed are pertinent sanitary surveys and water well records for each site.

Of the supplies surveyed, only the Halvorson well showed evidence of contamination. The Halvorson water supply system has several notable deficiencies including a buried well casing, unprotected buried suction line, unknown well casing depth and if grouted (note bedrock is zero to eight feet in this property), and the well lies in a low area downhill of the sewage disposal system. Mr. Halvorson also reported (upon excavation of the well casing) that a rubber innertube had been stretched across the top of the well casing for use as a seal. In this case it appears that the well construction deficiencies have caused contaminant entrance into the water supply.

Each of the water supplies that were evaluated had construction deficiencies which could have an influence on water quality of that individual well by serving as an avenue for contaminant entrance. Each surveyed owner was sent a letter describing any noted deficiencies and a summary of the survey results.

Also of interest in these water supplies is that the reported "sewage" odor is actually hydrogen sulfide (a rotten egg odor). In two cases the smell was the owner's reason for lodging the complaint.



In a letter sent to each water supply owner, the type of water sampling conducted by this department was discussed. It was stated that our tests would generally indicate contamination which might result from a sewage disposal system or natural source which could get into the water supply as a result of improper well construction but that industrial type contaminants would not be indicated through this sampling. The summary of the Cory Laboratories report (Jan. 15, 1979) was noted and that future sampling by the DNR in conjunction with the paper mill would be conducted to reassure that the sludge was not affecting ground water quality.

In summary, the one well with evidence of contamination was found to be improperly constructed. Other wells surveyed did not show evidence of contamination but all had deficiencies which could result in contamination under the right circumstances. One source of assumed contamination turned out to be hydrogen sulfide, a naturally occurring chemical. While there is no evidence at this time to implicate an industrial source of contamination, additional sampling of ground water in the area of the sludge disposal site and determination of ground water direction of flow in the area would be useful.

If you have any further questions concerning this matter, please contact me at our Manistique office.

Sincerely,



Mark McCune  
Registered Sanitarian

MM/nm

cc: Dave Williams, Department of Natural Resources  
Nick Frankovich, Hiawatha Township Supervisor  
Eric Bourdo, Manistique Pulp & Paper Mill

# Survey Results

Supply	Bact. Samples		Partial Chemical							Well Depth	* Water Supply Construction Deficiency
	1	2	ABS	Nitrate	Tannins	Iron	Hardness	Chloride	Hydrogen Sulfide		
Tom Halvorsen	> 1.0	> 1.0	0.6	11.2	not present	0.1	360	52.0			1, 2, 3, 5, 6
John Crossley	0.0		0.0	0.0	not present	1.3	280	6.0		60	1, 7
Faith Brandt	0.0		0.0	0.0	trace	0.2	170	2.0	present	85	1, 9, 4
Harvey Asp	0.0		0.0	0.0		2.3	230	11.0			1, 2, 3, 8, 6, 4, 7
Bob Walters	0.0		0.0	0.0	trace	0.1	5	25.0	present	85	not evaluated
Chuck Matchinski	0.0		0.0	0.0		2.9	265	4		85	7, 10

## \* Water supply notes

1. Buried suction line - unprotected
2. Buried well head
3. Casing depth unknown
4. Septic system less than 50' from well
5. Septic system uphill from well
6. Grouting of well casing unknown
7. No vent on well casing
8. Unknown well depth
9. Type of water line - casing connection unknown
10. Check valve upstream of pressure tank in submersible pump installation

## General notes

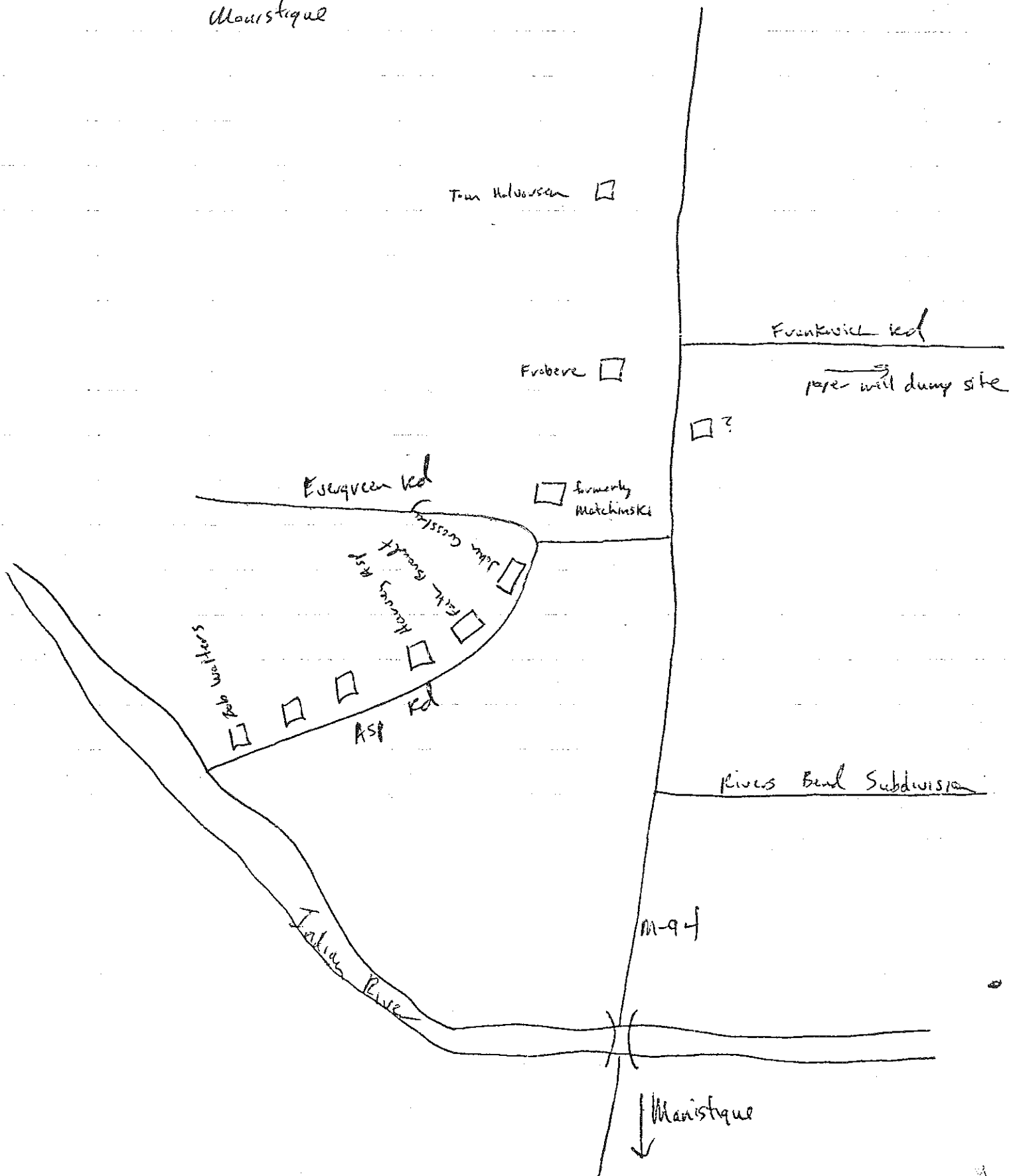
bedrock at: 0-8' Halvorson  
 5' Crossley  
 3' Brandt  
 14' Walters  
 9' Matchinski

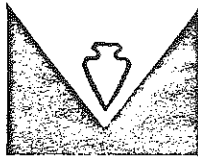
Water Supply Communication Survey

no sale

M-94, Indian River Area

Manistiquet





MANISTIQUE PULP AND PAPER COMPANY  
MANISTIQUE, MICHIGAN 49854

TELEPHONE: (906) 341-2175

Leif Christensen  
Vice President-General Manager

April 23, 1981

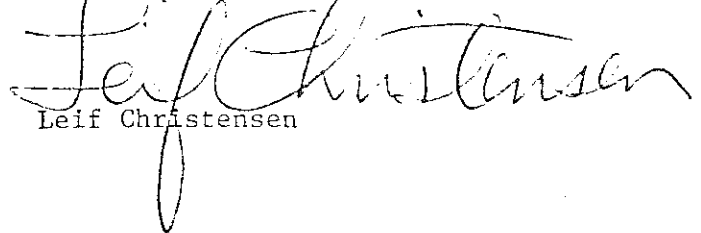
Chief Engineer  
Water Quality Division  
Box 30028  
Stevens T. Mason Building  
Lansing, Michigan 48909

Dear Sir:

This letter is to certify that the approved "Residuals Management Plan" has been implemented.

Sincerely,

MANISTIQUE PULP AND PAPER COMPANY

  
Leif Christensen

LC:blr

cc: Joe Bal, P.E.  
James Cook w/attachment  
Anthony J. Palladino, P.E. w/attachment

January 16, 1978

TO: Robert Courchaine, Chief, Water Quality Division

FROM: John Chauver, Aquatic Biologist, Biology Section  
Robert Basch, Aquatic Biologist, Biology Section

SUBJECT: Manistique Pulp and Paper Company, PCB Data

The following table lists the PCB data for sediments from our December 18-19, 1977 survey of the Manistique River below Manistique Pulp and Paper Company:

Station Location and Number		1242 PCB µg/kg	1254 PCB µg/kg	1250 PCB µg/kg
Manistique River Harbor Mouth rear east breakwall	A	< 500	1200	< 500
Manistique River Harbor Mouth west side	B	< 1000	17,000	< 1000
Manistique River - 100 yards above WWP outfall	C	680	< 500	< 500
Manistique River - 199 yards below Pulp and Paper Plant	D	150,000	12,000	< 10,000

These data show there are high concentrations of PCB's in the sediments immediately below the paper company and in a depositional area (Station B) in the harbor. Similar concentrations of PCB's were not found at Stations A and C because the sediments in these areas were all rock and/or sand.

We were unable to obtain a control sediment sample above the paper company due to ice conditions along the bank - we were unable to launch our boat. We tried to sample along the railroad bridge over the impoundment above the company but the bottom was all rock.

Based on the sediment results collected, we recommend the following:

1. Biology staff conduct a survey of the river in the spring above and below the paper company to determine:
  - a. extent of PCB contamination in resident and migratory fish above and below the paper company discharge.
  - b. areal extent of PCB contaminated sediments in the harbor and river.
  - c. document, via sediment traps, if the discharge of paper waste seen during the December survey is a continuing problem.
- ✓ 2. District 5 staff should sample at irregular and unannounced intervals, the company's discharges to determine if the present operation (using

January 16, 1978  
Page 2

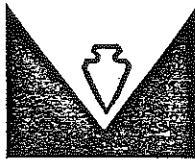
waste paper) is discharging PCB's to the Manistique River. We also recommend that district staff obtain control sediment samples which we were unable to obtain and determine if the paper discharge we observed is continuing. If the company is discharging PCB's in significant amounts, immediate steps should be taken to eliminate the discharge of PCB's.

3. The pulp and paper company, if not already required to do so by their NPDES permit, should analyze their effluent for PCB's and report the results until further notice.
4. Based on the concentrations of PCB's in these sediments (Station D in particular) and the existence of an on-going sports fishery in the area, we recommend that a fish warning be posted on the river from US-2 to the mouth. A significant portion of the fishery below US-2 is for anadromous fish. These sediments are similar in concentration to those below Cast Forge and the fish there had high concentrations. We, therefore, believe that until we establish that either the resident and anadromous fish are uncontaminated or nonexistent, these sediments constitute a potential threat to area fishermen.
5. We request that Fisheries Division staff immediately collect fish in this river so that PCB concentrations can be determined.

JS/RB/pls

cc: K. Zollner  
J. Bails  
R. Powers  
P. Zugger

xc: J. Bx1



MANISTIQUE PULP AND PAPER COMPANY  
MANISTIQUE, MICHIGAN 49854

TELEPHONE: (806) 341-2175

March 24, 1977

Mr. John Hesse, Chief  
Office of Toxic Materials Control  
Environmental Services Division  
Department of Natural Resources  
Stevens T. Mason Building  
Lansing, Michigan 48926

Dear Mr. Hesse:

Manistique Pulp and Paper Company is not knowingly using Pentachlorophenols or other related contaminants, the dioxins, including without limitation, Sodium Pentachlorophenol, Sodium Pentachlorophenate or other Chlorophenolic compounds which have the potentials to contain a highly toxic dioxin contaminant.

Sincerely,

MANISTIQUE PULP AND PAPER COMPANY

  
A. H. Grimnes

AHG:blr

cc: Joe Bal ✓  
Leif Christensen

MICHIGAN DEPARTMENT OF NATURAL RESOURCES

INTEROFFICE COMMUNICATION

TO: Joseph Bal

FROM: Karl Zollner, Jr. *KJZ*

SUBJECT: Manistique Pulp and Paper Company

DATE: February 27, 1975

Attached are four copies of a report of an industrial wastewater survey conducted at the Manistique Pulp and Paper Company on July 22-24, 1974. Please review the report and send a copy, or copies, to the Company along with appropriate comments.

NPDES Permit No. MI 0003166 which was issued on December 20, 1974, was not in effect at the time of this survey. Final Order of Determination No. 1473, dated February 18, 1971, required the Company to provide secondary biological treatment facilities or such lesser degree of treatment as would provide for water quality enhancement by December 1, 1972. Apparently these facilities were built but from the sound of the survey report they are not properly maintained or properly operated. Since the time of this survey has the Company repaired the air flotation unit and removed the solids that plugged it? When was this accomplished? If this has not yet been done, let us know so that we can issue a notice of non-compliance requiring them to do this by a specific date. Similarly, has the vacuum pump been replaced and the solids removed from the clarifier? When was this accomplished? Are they still discharging debarker wastewater directly to Weston Avenue Creek without treatment?

The report notes that the Company softens part of the river water they use in the plant. Are the softener sludges and other wastes produced included in the present NPDES permit? Is the boiler blowdown covered by the permit? The survey shows that these discharges contain high suspended solids (1,500 mg/l), settleable solids (1,362 mg/l) and chlorides (600 mg/l).

What is the source of the relatively high lead concentrations (0.9 mg/l and 0.25 mg/l) and zinc concentrations (0.9 mg/l) in discharge 770013? The pH in this outfall was low ranging from 4.6 to 6.4.

The lagoon discharge, 770014 also had a low pH of 4.8 as did discharge 770021 which had a pH of 4.7 and 6.9. If these low pH's are still occurring, the Company will not be meeting the initial effluent limitations contained in their NPDES permit. The debarker discharge 770021 had an oil and grease concentration of 49 mg/l during one of the two 24-hour survey periods and a phenol concentration of 0.37 mg/l during the other 24-hour survey period.

KZ:ew  
cc: R. Christensen

### Survey Comments

The mill shutdown after the survey started. This shutdown was for planned maintenance. The survey crew was not informed of the shutdown until the survey was eleven hours old. The wastewater survey started at about 8:00 p.m. on May 22, 1984, and lasted 24 hours. The shutdown started at 7:00 a.m. on May 23, 1984 and lasted until midnight that day. The wastewater flows declined after the shutdown started.

There are three distinct discharges to outfall 770043 (004) that must be sampled separately prior to mixing. Two of these were discharging during the survey and were sampled. The results are shown in Tables 1 and 2 and are labelled as 770043 (004) Heat Exchanger and 770043 (004) Seal Water. The combined discharge was calculated. The results are shown in Table 1 and are labelled 770043 (004) Combined.

Aluminum was found at concentrations from 6600 to 9000 ug/l in the samples from outfall 770044 (006) (see Tables 1 and 2).

### Plant Processes

Manistique Papers, Inc. produces specially ground wood paper for use as newsprint, novel newsprint, computer printout paper, magazine inserts, colored papers and other similar types of papers. The mill operates 24 hours per day, 7 days per week and employs approximately 200 people. Production at the time of the survey was considered normal at 275 tons of paper per day.

The raw materials used in manufacturing include recycled paper from a variety of sources and poplar, balsam, and spruce logs. The groundwood source of pulp is being phased out. Recycled paper now accounts for almost 100% of the raw material.

The raw materials are refined, cleaned, and mixed with chemicals prior to being placed on the Fourdrinier machine. After the paper is formed, it is pressed and dried into the final product.

### Water Supply, Wastewater & Treatment

The plant obtains all process water from the Manistique River. Water used in the boiler is softened prior to use. Water for domestic use is supplied by the city. Domestic wastewater is discharged to the City of Manistique's sanitary system. The outfalls, the nature of wastewater discharged through the outfalls, and any treatment provided at the outfall are detailed below. The outfall location map is given in Figure 1. The wastewater treatment for process wastewater is detailed in Figure 2.

Process wastewaters generated from the paper mill and pulp mill are pumped separately to the two primary clarifiers. One clarifier receives paper mill wastewater only while the other receives a combination of pulp mill and paper mill wastewater.



Manistique Papers Inc. - Tx w/ Leif Christensen & Jim Cook  
Re: PCB Contamination & May 20 Letter to Guenther

We discussed Leif's 5/20/86 letter to G. Guenther on the 307 listings for the Manistique River. I took exception to the mention of "samples characterized as sludge which contained little or no sludge." Leif feels this paragraph is accurate because it mentions samples retained vs. samples sent to Cory (the 3 samples which were 100% sludge). I felt that it is misleading. Leif apologized for not sending a copy of his letter to Jack.

I told Leif that his comments are being seriously considered - a reply is expected by June 12.

Jim said that the study plan for determining the extent of PCB contamination on site has been given to Dennis Bittner, UP. Enggs - for finalization. It will be essentially what I recommended. They will give Dennis a push - it had been promised by today (verbally).

Leif & I discussed the relative fiber content of various sludges. Upon Jim's suggestion that older sludge contained less fiber (the white water went straight to the river when debris & pulp?) sewers went to the blocked off slip, Leif admitted that old sludges w/o fiber might have been mistaken for dirt. We will re-examine the split samples for sludge when I next visit Manistique. Jim will send the 5/12

splits to Cory for analysis, retaining  
some for future visual observation.

I also reviewed the results of our 5/12  
samples. They make the "fill" theory less  
plausible.

~~Heu~~